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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,440	06/13/2001	Atsushi Fujii	Kinoshita C194A	7080

7590

09/18/2003

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EXAMINER

NAKARANI, DHIRAJLAL S

ART UNIT

PAPER NUMBER

1773

DATE MAILED: 09/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,440

Applicant(s)

FUJII ET AL.

Examiner

D. S. Nakarani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 25, 2003 has been entered.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed fail to provide support for the limitation "a total haze of less than 6%" in claim 1, line 14. The specification as originally filed appears to provide support for the limitation "a total haze in the range from 0.7 to 6% for 200 microns thick sheet (see Table 1). The specification as originally filed does not provide support for the total haze of

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less than 0.7% for 200 microns thick sheet. The limitation "a total haze of less than 6% reads on a total haze of less than 6% at any thickness including thickness less than 200 microns. Further said limitation also reads on a total haze of less than 0.7% at any thickness including thickness less than 200 microns which is a new matter.

5. Claims 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 17, line 4, claim 18, line 4 and in claim 19, line 5, the word "and" should read -- or -- for proper Markush group.

6. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Genske et al (US Patent 4,778,697) for the reasons of record set forth in paragraph 4 of the Office Action mailed October 28, 2002 (Paper No. 5). Further, in absence of showing otherwise, Genske et al's film deemed to be transparent and haze within claimed range since none of the layer contains a pigments and/or filler.

7. Applicant's arguments filed August 25, 2003 have been fully considered but they are not persuasive. In reference to rejection of claims 1-25 under 35 USC § 103(a) as being unpatentable over Genske et al (US Patent 4,778,697), applicants mainly argue that in all of the disclosed embodiments, Genske et al uses high density polyethylene as part of an intermediate layer for securing heat resistance as a retort package. Since high-density polyethylene has high crystallinity and great size of crystals when being molded as a sheet, high-density polyethylene

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sheets are translucent. If a significant amount of a low-density polyethylene were used by Genske et al for improving transparency, heat resistance would be deteriorated.

These arguments are unpersuasive because there is nothing on record showing that Genske et al's multi-layer film does not have total haze less than 6%. Genske et al's examples also includes significant amount of ethylene-propylene copolymer, Tafmer P up to 60 wt % (Example 3), 50 wt % polybutylene (Example 12) etc. Also see Examples 17, 18, 20, 29 and 34, which do not include measure amounts of high-density polyethylene.

8. Any inquiry concerning this communication from the examiner should be directed to Examiner D. S. Nakarani whose telephone number is (703) 308-2413. The examiner can generally be reached on Tuesday-Friday from 7 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on (703) 308-2367. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

D.S. Nakarani/dh
September 11, 2003.


D. S. NAKARANI
PRIMARY EXAMINER